

REMARKS

This is in response to the Office Action mailed on February 12, 2008. Claims 1-40 were pending in the application, and the Examiner rejected all claims. With this amendment, claims 1, 22, 24-28, 30-31, 33, and 36 are amended, claims 12, 23 and 40 are canceled, and the remaining claims are unchanged in the application.

At the top of page 2 of the Office Action, the Examiner objected to claims 30-33 based on improper dependency recited in those claims. The dependency has now been revised, and is in proper form. Therefore, Applicant respectfully requests withdrawal of the objection.

Also, on page 2 of the Office Action, the Examiner rejected claims 1-4 and 7-40 under 35 U.S.C. §103(a) as being unpatentable over Swartz et al. US Patent No. 6,837,436. Applicant respectfully traverses the Examiner's rejection. Independent claim 1 is drawn to a method of filling an order at a product moving device (such as a shopping cart) in a store. The method of claim 1 includes receiving a list that has items on it, displaying a list to an operator on a display device, placing items on the list on a the product moving device (such as in the shopping cart), detecting an item placed on the product moving device and reflecting that on the shopping list, and "electronically displaying, at the product moving device, a route within the store for the operator to travel with the product moving device to obtain all remaining items on the list."

In other words, there may be an optimal pattern within a store that the user should travel, in order to most efficiently find the items on the shopping list. Alternatively, of course, the merchant may wish to direct the user past certain items within the store, and therefore display a route within the store that would take the user past those items, even if it is not the most efficient, given the items on the user's shopping list. Nothing like this is either taught or suggested by Swartz et al.

It is first worth noting that the drawings in the Swartz reference do not correspond to the written text. They appear to be completely different, and simply do not contain the items described in the written text. Notwithstanding that, Applicant has reviewed the written text of Swartz, and attempted to understand its meaning, even without the drawings.

At column 14, Swartz et al. discusses that the location of certain items within a store can be stored in a column 920 in a table of records that is kept in a profile database. However, this profile database is not viewable by the user, and the data is not used to display any type of route through a store. Instead, the product profile database is used by the store management personnel in order to schedule deliveries, in order to take inventory, etc. There is no teaching or suggestion, whatsoever, that it is used to display anything to the user, much less a route throughout the store to obtain the items on the user's shopping list.

Similarly, columns 20, line 65-column 21, line 42 indicate that the system in Swartz et al. has the ability to track the location of the portable unit, being carried by the user, within the store. However, again, Swartz et al. uses this information for a completely different purpose, and does not display a route within the store to the user. Instead, Swartz et al. uses it to display advertisements for certain products, as the user is approaching those products within the store. See, for example, column 21, lines 22-26. In addition, Swartz et al. say that store personnel can fill a customer's order, and then bring it to them within the store, if they know the location of the customer within the store. See column 21, lines 37-39. Also, the location tracking information can be used, as mentioned by Swartz, in order to determine whether a customer is stealing something. See column 21, line 39-42.

Swartz et al. also mentions that the system can use the location tracking information to manage traffic in real time. For instance, if a number of customers in a given area exceeds an acceptable level, then the system can send messages to certain portable terminals to encourage some of the customers to move to another area. This is discussed at column 21, lines 50-54. The system can also be used in order to place products in desired locations within the store, in order to avoid bottlenecks when customers are shopping. See column 21, lines 43-50. Finally, Swartz et al. teaches that the information can be used to manage store employees. Swartz et al. further state that the customer shopping list can be sorted based on the location of items on the shopping list within the store. Further, Swartz state that the user may go to a kiosk in order to obtain a printout of a map of the store.

Of course, none of this has anything to do with electronically displaying, at the product moving device, the route within the store, based on the items that are on the user's shopping list.

In contrast, independent claim 1 specifically includes "electronically displaying, at the product moving device, a route within the store for the operator to travel with the product moving device to obtain all remaining items on the list." This is simply neither taught nor suggested by Swartz et al. Therefore, Applicant submits that independent claim 1 is allowable.

Independent claim 22 is drawn to another embodiment of an order filling system that includes a first computer, a pick list containing a list of desired items to fill an order, a motorized product moving machine having a first reader disposed thereon, connected to the first computer system; "a pallet having an identification tag automatically readable by the first reader on the motorized product moving machine, the identification tag storing a pallet identification on a form readable by the reader, the pallet identification being associated with the order in the first computer system; a display device connected to the product moving machine configured to display the pick list; and wherein the pick list is generated at the first computer system and transmitted to the first reader on the product moving machine." This system is simply neither taught nor suggested, nor even mentioned, by Swartz et al.

Applicant has been unable to find where Swartz et al. teaches any type of motorized product moving machine or any type of pallet. Similarly, it does not appear that any type of readable tags are disposed on anything in Swartz et al. except on the products themselves. Since Swartz et al. does not mention a pallet, it certainly does not teach a readable identification tag on a pallet that is read by a motorized product moving machine (such as a forklift). Further, because Swartz et al. does not teach or suggest any type of identification tag on any type of item other than a product, it cannot teach a tag on a pallet, wherein the pallet identifier is associated on a computer system with an order. This is simply neither taught nor suggested, nor contemplated, nor even mentioned, by Swartz et al.

Yet, this embodiment is advantageous. Where a driver of a forklift is going fill an order, the driver of the forklift first obtains an empty pallet. The identification on that pallet is

associated with the order in the computer system, so that the pick list for that order can be automatically downloaded to the reader on the forklift. The driver of the forklift then can automatically display the pick list of items to be placed on the pallet, in order to fill the order. No system, that can obtain these advantages, is taught, or suggested, or even mentioned anywhere in Swartz et al. Therefore, Applicant submits that independent 22 is allowable over Swartz et al.

Applicant further submits that a number of the dependent claims are independently allowable. For instance, dependent claim 24 specifically states that “the pick list corresponding to the pallet identification on the tag is transmitted to the display device on the motorized product moving machine when the motorized product moving machine and the pallet are operably, physically coupled to one another.” Since Swartz et al. neither teaches nor suggests any type of motorized product moving machine, or a pallet, or a tag associated with the pallet, it simply cannot teach or suggest any of the limitations found in claim 24. In addition, claim 25 specifically states that the motorized product moving machine is a forklift. Again, since Swartz et al. does not teach any type of motorized product moving machine, it cannot teach a forklift, and therefore, it cannot realize the benefits of such a system. Applicant thus submits that these claims are independently patentable over the reference cited by the Examiner.

On page 7 of the Office Action, the Examiner rejected claims 5-6 under 35 U.S.C. §103(a) as being unpatentable over Swartz et al. in view of Official Notice. Applicant specifically traverses the Examiner’s taking of Official Notice. The Examiner stated that it was old and well known in the shopping art that a shopping list includes the desired quantity for each item. Yet, this is not what is being claimed by Applicant, at least in claim 6. Claim 6 specifically states that displaying the desired number of items on the list is done on the product moving device, and this, of course, is set in context in independent claim 1. Therefore, Applicant is not simply claiming that a shopping list has a desired number of items on it, but instead it is claiming that the shopping list and the desired number of items are displayed to the user on the product moving device, and this is neither taught nor suggested by the reference, nor by any prior art known to Applicant.

With respect to claim 5, Applicant also submits that receiving a number desired for each of the items on the shopping list is neither taught nor suggested by Swartz et al., nor by any prior art, when considered in conjunction with independent claim 1. Therefore, to the extent that the Examiner is taking Official Notice, Applicant respectfully traverses that Official Notice.

Applicant would also note that claim 7 is dependent on claim 6. Therefore, in order to reject claim 7, Applicant submits that the Examiner must rely on Official Notice as well. However, the Examiner did not indicate that Official Notice was being taken in the rejection on page 4 of the Office Action. Therefore, Applicant submits that the rejection of claim 7 is insufficient, and claim 7 is independently allowable.

In conclusion, Applicant submits that independent claims 1 and 22 are allowable over the references cited by the Examiner. Applicant also submits that a number of the dependent claims are independently allowable. Further, dependent claims 2-11, 13-21 and 24-39, depend either directly or ultimately from the independent claims. Applicant thus submits that they are allowable as well. Reconsideration and allowance of claims 1-11, 13-22, and 24-39 are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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